

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1180766 C-13D
LEE KIM BOLIN,)
ROSALIE BOLIN,)
)
Debtor(s))
_____)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtors’ plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on May 11, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On May 11, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtors proposes a monthly payment of \$265.00 per month for a period of 60 months. The plan proposes to distribute \$11,400.00 to unsecured creditors representing the Debtors’ disposable income. There is approximately \$108,353.00 of unsecured debt listed in Schedule “F”.
5. The Internal Revenue Service (“IRS”) has filed an unsecured priority claim in the amount of \$27,040.15 which is to be paid in full through the plan.
6. The Debtors have filed with the plan a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C (“Form B22C”). The Debtors list current monthly income (“CMI”) in Form B22C of approximately \$8,120.17.
7. The Trustee objects to confirmation of the Debtors’ plan in that the Debtors may not be devoting all of their projected disposable income to fund the plan pursuant to 11 U.S.C. §1325(b). The Debtors fail to list any income for the female Debtor

in either Schedule I or Form B22C. The Trustee requests a hearing to determine the Debtors' correct monthly disposable income, if any.

8. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy priority claim of the IRS and all other secured or priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 19th day of July, 2011.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Lee Kim & Rosalie Marie Bolin, 4902 Leesville Rd., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 19th day of July, 2011.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee